

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

BIOGEN IDEC MA INC.,

Plaintiff,

v.

JAPANESE FOUNDATION FOR
CANCER RESEARCH;
KYOWA HAKKO KIRIN CO., LTD;
TORAY INDUSTRIES, INC.; and
BAYER PHARMA AG,

Defendants.

No. 1:13-CV-01489-CMH-TRJ

JOINT STIPULATION AND [PROPOSED] ORDER

WHEREAS on December 3, 2013, Plaintiff Biogen Idec MA Inc. (“Biogen Idec”), filed a complaint (“the Complaint”) against Defendants Japanese Foundation for Cancer Research (“JFCR”), Kyowa Hakko Kirin Co., Ltd. (“Kyowa”), Toray Industries, Inc. (“Toray”), and Bayer Pharma AG (“Bayer”) (Dkt. 1) in the above-captioned action and all defendants have now been served;

IT IS HEREBY STIPULATED AND AGREED, subject to the approval of the Court, that:

1. All parties agree to the dismissal of all claims against Kyowa and Toray without prejudice. Further, all parties agree that Kyowa and Toray are not indispensable parties to this

action, and will not argue such at a later date, or otherwise attempt to join them as parties in this action.

2. This stipulation is without prejudice to Biogen Idec's right to seek to dismiss Bayer from this case under the Federal Rules of Civil Procedure, including but not limited to, Federal Rule of Civil Procedure 21. However, this stipulation is also without prejudice to Bayer's right to oppose any such request for dismissal. All parties agree not to argue that Bayer's consent to this stipulation with respect to Kyowa and Toray, or its agreement that they are not indispensable parties, bears on the question of whether Bayer is an indispensable party.

Dated: May 22, 2014

Respectfully Submitted,

/s/

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SO ORDERED this _____ day of May, 2014.

United States District Judge

CERTIFICATE OF SERVICE

I hereby certify that on May 22, 2014, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send a notification of such filing (“NEF”) to the counsel who appear in the CM/ECF system:

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